

### **REMARKS**

Applicant hereby traverses the current rejection, and requests reconsideration and withdrawal in light of the remarks contained herein. Claims 1-5, 8-12, and 14-20 are pending in this application.

#### **Rejection Under 35 U.S.C. § 103**

Claims 1-5, 8-12, and 14-20 are rejected under 35 U.S.C. § 103(a) as being unpatentable over an article by Mehmet D. Akin et al. entitled "Using Objected Oriented Design Patterns to Develop an Interactive Command System for a CAD Software with Undo and Redo Support," 2000, pages 410-417 (hereinafter "Akin").

#### **Akin is Not a Prior Art Reference**

The Examiner has not provided the proper foundation for this reference to be used as prior art. Applicant notes that Akin is not a patent, nor a patent application, and thus is not a prior art reference under 35 U.S.C. § 102(e). Applicant further notes that the 2000 year date of Akin prevents it from being a prior art reference under 35 U.S.C. § 102(b). Thus, Akin may only be prior art under 35 U.S.C. § 102(a).

The Office Action states that the "exact date" of publication is 11 October 2000. This is incorrect, as 11 October 2000 is a date of the conference, not the date of publication. Furthermore, the date of 11 October 2000 is the first date of the conference, not necessarily the date of the presentation of the paper, as the documentation provided by the Examiner indicates that the conference dates were from 11-13 October 2000. Also, the conference took place in Istanbul, Turkey. Since this Application has a filing date of 13 October 2000, the last day of the conference, and the conference did not take place in the U.S., the conference presentation itself cannot qualify as prior art under 35 U.S.C. § 102(a). Consequently, without a proper publication date, the Akin reference is not a prior art reference that can be applied against this Application. Therefore, Applicant respectfully requests that this rejection be withdrawn.

Affidavit under 37 C.F.R. § 1.131

Applicant submits herewith a declaration under 37 C.F.R. § 1.131 of Douglas M. Gilbert, along with supporting evidence (Exhibit A of the declaration). As provided in the declaration, the inventors of the present Application conceived of the claimed invention prior to 11 October 2000, the earliest effective publication date of the Akin reference, coupled with due diligence from prior to 11 October 2000 to filing of the present application. Accordingly, Applicant hereby antedates the publication date of Akin by submitting the accompanying declaration under 37 C.F.R. § 1.131. Therefore, Applicant respectfully requests that this rejection be withdrawn.

Lack of Limitations

To establish a *prima facie* case of obviousness, three basic criteria must be met. First, there must be some suggestion or motivation, either in the references themselves or in the knowledge generally available to one of ordinary skill in the art to modify the reference or to combine reference teachings. Second, there must be a reasonable expectation of success. Finally, the prior art cited must teach or suggest all the claim limitations. See M.P.E.P. § 2143. Without conceding the first and second criteria, Applicant asserts that the rejection does not satisfy the third criteria.

The Office Action admits that Akin does not teach having a note creation module. The Office Action attempts to cure this deficiency by introducing common knowledge, which the Office Action alleges to teach having such limitations. However, this combination, as presented, does not teach or suggest all limitations of the claimed invention.

In this rejection, the Examiner states that it is 'well known' to have an interactive drawing program to create notes associated with changes. Applicant believes that the Examiner has either relied on his own personal knowledge, or taken Official Notice, with respect to this matter. Under Rule 37 C.F.R. § 1.104(d)(2), the Examiner is hereby requested to provide and make of record an affidavit setting forth his data as specifically as possible for the assertion. Alternatively, under M.P.E.P. § 2144.03, the Examiner is hereby requested to cite a reference in

support of the assertion. Otherwise, the rejection of claims 1-5, 8-12, and 14-20 should be withdrawn.

Claim 1 defines a notes service for a computer aided design (CAD) application that includes a note creation module which captures an electronic note associated with a change in a three-dimensional model of said CAD application; a note storage module which stores said captured note and an associated data file for later retrieval; and a note retrieval module for retrieving and displaying said captured note with a display screen of said three-dimensional model, that existed when said note was generated, using said associated data file. The Akin reference, as modified, does not teach all of these limitations. The Examiner states that it is “well known” to have an interactive drawing program to create notes. However, claim 1 requires that the note is associated with a change in a three dimensional model. The Examiner does not rely upon personal knowledge/official notice as disclosing this aspect of the claimed note creation module, nor is it relied upon for teaching the claimed note storage module and the claimed note retrieval module. Akin itself does not teach any of these limitations. Thus, Akin, as modified, does not teach all of the claimed limitations. Therefore, the Applicant respectfully asserts that for the above reasons, claim 1 is patentable over the 35 U.S.C. § 103(a) rejection of record.

Claim 5 defines a method for capturing and managing electronic notes in a computer aided design (CAD) based application that comprises capturing a note in a note object; associating a data file with said captured note, wherein said data file is used to generate a display of a three-dimensional model of said CAD application that existed when said note was captured; storing said note object and said associated data file in persistent storage for later retrieval; receiving a query condition; and retrieving said note object and said associated data file if attributes of said note object meet said query condition. The Akin reference, as modified, does not teach all of these limitations. The Examiner states that Akin does not teach a note creation module. Applicant respectfully reminds the Examiner that claim 5 does not use the words “note creation module.” The Examiner then states that it is “well known” to have an interactive

drawing program to create notes. However, claim 5 has other limitations that are not addressed in the rejection. For example, capturing a note in a note object is not addressed by the rejection, and the personal knowledge/official notice relied upon by the Examiner does not address this limitation either. Akin itself does not teach any of these limitations. Thus, Akin, as modified, does not teach all of the claimed limitations. Therefore, the Applicant respectfully asserts that for the above reasons, claim 5 is patentable over the 35 U.S.C. § 103(a) rejection of record.

Claim 15 defines a computer readable storage medium tangibly embodying program instructions implementing a method for capturing and managing electronic notes in a computer based application, the method comprising capturing a note in a note object; associating a data file with said captured note, wherein said data file is used to generate a display of a three-dimensional model of said CAD application that existed at the time the note was captured; receiving a query condition; and retrieving said note object and said associated data file if attributes of said note object meet said query condition. The Akin reference, as modified, does not teach all of these limitations. The Examiner states that claim 15 is similar to claims 1 and 5, and does not address the limitations of claim 15. Applicant reminds the Examiner that claim 15 contains limitations different from claims 1 and 5. Applicant asserts that the “well known” statement made by the Examiner does not address the limitations of claim 15. Akin itself does not teach any of these limitations. Thus, Akin, as modified, does not teach all of the claimed limitations. Therefore, the Applicant respectfully asserts that for the above reasons, claim 15 is patentable over the 35 U.S.C. § 103(a) rejection of record.

Claims 2-4, 8-12, 14, and 16-20 depend from base claims 1, 5, and 15, respectively, and thus inherit all limitations of their respective base claim. Each of claims 2-4, 8-12, 14, and 16-20 sets forth features and limitations not recited by modified Akin. Thus, the Applicant respectfully asserts that for the above reasons, claims 2-4, 8-12, 14, and 16-20 are patentable over the 35 U.S.C. § 103(a) rejection of record.

In view of the above, Applicant believes the pending application is in condition for allowance.

Applicant believes a fee of \$930 is due with this response. However, if additional fees are due, please charge our Deposit Account No. 08-2025, under Order No. 10001114-1 from which the undersigned is authorized to draw.

Respectfully submitted,

By 

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I hereby certify that this paper (along with any paper referred to as being attached or enclosed) is being transmitted via the Office electronic filing system in accordance with § 1.6(a)(4).

Date: February 28, 2008

Signature: 

Donna Dobson